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24
25 UNITED STATES DISTRICT COURT
26 FOR THE CENTRAL DISTRICT OF CALIFORNIA
27 WESTERN DIVISION
28

29 UNITED STATES OF AMERICA,

30 Plaintiff,

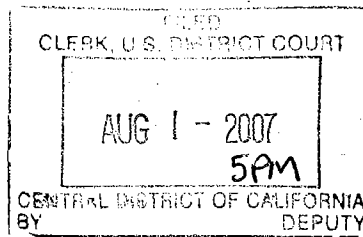
31 v.

32 KRISTIN R. BLAKE,

33 Defendant.

34 Civil No.

35 COMPLAINT



CV 07 5001 MRP(FMD)

36 The United States of America, by and through the undersigned attorneys, by
37 the authority of the Attorney General of the United States and on behalf of the
38 United States Department of the Interior, National Park Service ("NPS"), alleges
the following:

1 **STATEMENT OF THE CASE**

2 1. This is a case pursuant to the Park System Resource Protection Act,
3 16 U.S.C. §§ 19jj to 19jj-4 (hereinafter "PSRPA") and California trespass law,
4 including Cal. Civ. Code § 3346 and Cal. Civ. Proc. Code § 733, arising from
5 Defendant Kristin R. Blake's unauthorized cutting of a trail and destruction of 902
6 square meters of native habitat and 365 square feet of paleontological resources on
7 lands administered by NPS in the Santa Monica Mountains National Recreation
8 Area ("SMMNRA").

9
10 **JURISDICTION AND VENUE**

11 2. This Court has jurisdiction over the subject matter of this action
12 pursuant to 16 U.S.C. § 19jj-2(a) (PSRPA) and 28 U.S.C. §§ 1331 (federal
13 question) and 1345 (United States as plaintiff).

14 3. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b)
15 because the defendant resides in this district and because the events at issue
16 occurred in this district.

17
18 **PARTIES**

19 4. The Plaintiff is the United States of America ("United States") and
20 was at all times pertinent to this complaint in possession of the land within the
21 SMMNRA where the alleged damages occurred.

22 5. Defendant Kristin R. Blake ("Defendant") is a natural person residing
23 in Malibu, CA, who caused the damages which are the subject of this action, and
24 is a "person" within the meaning of the PSRPA, 16 U.S.C. § 19jj-1(a), and
25 California trespass law including Cal. Civ. Code § 3346 and Cal. Civ. Proc. Code
26 § 733.

LEGAL BACKGROUND

6. The United States, through the Secretary of the Department of the Interior, established the SMMNRA pursuant to 16 U.S.C. § 460kk.

7. Congress determined that the land within the SMMNRA provides significant scenic, recreational, educational, scientific, natural, archeological and public health benefits, and has directed the Secretary of the Department of the Interior to preserve and enhance those benefits while providing for the recreational and educational needs of the visiting public. 16 U.S.C. §§ 460kk(a) and (b).

8. The PSRPA, 16 U.S.C. § 19jj-1(a), provides that “any person who destroys, causes the loss of, or injures any park system resource is liable to the United States for response costs and damages resulting from such destruction, loss, or injury.”

9. The provisions of the PSRPA are in addition to any other liability which may arise under federal or state law. 16 U.S.C. § 19jj-1(d).

10. In California, wrongful entry on land owned by another is trespass.

11. Section 3346(a) of the California Civil Code provides that “[f]or wrongful injuries to timber, trees, or underwood upon the land of another, or removal thereof, the measure of damages is three times such sum as would compensate for the actual detriment, except that where the trespass was casual or involuntary, or that the defendant in any action brought under this section had probable cause to believe that the land on which the trespass was committed was his own or the land of the person in whose service or by whose direction the act was done, the measure of damages shall be twice the sum as would compensate for the actual detriment. . . .” Cal. Civ. Code § 3346.

12. Section 733 of the California Code of Civil Procedure provides that “[a]ny person who cuts down or carries off any wood or underwood, tree, or timber, or girdles or otherwise injures any tree or timber on the land of another person . . . without lawful authority, is liable to the owner of such land . . . for

1 treble the amount of damages which may be assessed therefor, in a civil action, in
2 any Court having jurisdiction.” Cal. Civ. Proc. Code § 733.

4 **GENERAL ALLEGATIONS**

5 13. On August 18, 2003, SMMNRA staff received a report of
6 unauthorized clearing on a parcel owned by the United States and located within
7 the SMMNRA (the “NPS Parcel.”)

8 14. Upon investigation, SMMNRA staff found an individual, Raul
9 Ramos, cutting a horse trail (the “Horse Trail”) on the NPS Parcel. The Horse
10 Trail was approximately 420 meters long and 1.6 meters wide.

11 15. Defendant caused Mr. Ramos, her employee, to enter the NPS Parcel
12 and cut the Horse Trail.

13 16. Defendant did not seek or obtain authorization from NPS or the
14 United States prior to constructing the Horse Trail on the NPS Parcel.

15 17. Defendant’s construction of the Horse Trail resulted in the destruction
16 of, and/or loss of, and/or injury to 902 square meters of vegetation on the NPS
17 Parcel.

18 18. Defendant’s construction of the Horse Trail also resulted in the
19 destruction of, and/or loss of, and/or injury to 365 square feet of paleontological
20 resources (fossils) located on the NPS Parcel.

21 22 **FIRST CLAIM FOR RELIEF** 23 **(Strict Liability for Damage to Park System Resources Under the PSRPA)**

24 19. The allegations contained in Paragraphs 1 - 18 are realleged and
25 incorporated by reference herein.

26 20. Vegetation and paleontological resources are both park system
27 resources because they are “living or non-living resource[s] . . . located within the
28 boundaries of a unit of the National Park System.” 16 U.S.C. § 1911(d).

1 21. Defendant's construction of the Horse Trail on the NPS Parcel
2 resulted in the destruction, loss of, and/or injury to park system resources within
3 the meaning of the PSRPA, 16 U.S.C. § 19jj-1(a).

4 22. The United States has incurred and will incur response costs and
5 damages as a result of the destruction, loss and/or injury Defendant caused to the
6 NPS Parcel.

7 23. Pursuant to the PSRPA, 16 U.S.C. § 19jj-1(a), Defendant is jointly
8 and severally liable for all response costs and damages resulting from the
9 destruction, loss of, and/or injury to park system resources.

10
11 **SECOND CLAIM FOR RELIEF**
12 **(Liability for Trespass Under California Law)**

13 24. The allegations contained in Paragraphs 1 - 23 are realleged and
14 incorporated by reference herein.

15 25. The NPS Parcel is property of the United States, a "person" within the
16 meaning of California trespass law, including Cal. Civ. Code § 3346 and Cal. Civ.
17 Proc. Code § 733.

18 26. Defendant committed trespass by causing Mr. Ramos to wrongfully
19 enter upon the NPS Parcel and cut the Horse Trail.

20 27. Defendant's trespass resulted in the cutting of and/or injury to wood,
21 underwood and trees on the NPS Parcel.

22 28. Defendant had no legal authority to order the cutting of and/or injury
23 to wood, underwood and trees on the NPS Parcel, and the injury Defendant caused
24 by so doing was wrongful.

25 29. Pursuant to Cal. Civ. Code § 3346 and Cal. Civ. Proc. Code § 733,
26 Defendant is therefore liable to the United States for three times the sum that
27 would compensate for the actual detriment caused by her wrongful cutting of
28 and/or injury to wood, underwood and trees on the NPS Parcel.

1 **PRAYER FOR RELIEF**

2 WHEREFORE, based upon all of the allegations set forth above, Plaintiff
3 United States requests that this Court:

4 1. Enter judgment in favor of Plaintiff United States and against
5 Defendant for response costs and damages incurred as a result of her destruction
6 of park resources in accordance with the PSRPA, 16 U.S.C. §§ 19jj to 19jj-4;

7 2. Enter judgment in favor of Plaintiff United States and against
8 Defendant in the amount of three times the sum that would compensate for the
9 actual detriment for her trespassory destruction of wood, underwood and trees on
10 the NPS Parcel in accordance with Cal. Civ. Code § 3346 and Cal. Civ. Proc.
11 Code § 733;

12 3. Enjoin Defendant from further trespassing upon or causing
13 destruction, loss and/or injury to lands of the United States, including but not
14 limited to the NPS Parcel;

15 4. Award the United States its costs and fees in this action; and

16 5. Grant such other and further relief as this Court may deem just and
17 proper.

18
19 Respectfully submitted,

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21
22
23 By: 

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